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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

EPIC GAMES, INC.

Plaintiff, Counter-defendant  
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR-TSH

**APPLE INC.'S STATEMENT IN SUPPORT  
OF ADMINISTRATIVE MOTION TO SEAL**

The Honorable Thomas S. Hixson

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Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rule 79-5, Apple Inc. (“Apple”) submits this statement in support of Epic Games, Inc.’s Administrative Motion to Consider Whether Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5 (Dkt. 1395) (“Epic’s Motion”). Apple respectfully requests that the Court partially seal Exhibit B to Epic’s Motion because it contains information sealable under controlling law and Local Rule 79-5. Exhibit B contains excerpts from Apple’s privilege log prepared for the Special Masters conducting evaluation of the privilege claims stemming from Apple’s re-review. The privilege log entries are required to be filed under the terms of the Joint Stipulation and Order Approving Privilege Re-Review Protocol (Dkt. 1092) (the “Protocol”), but contain personally identifiable information in the form of email addresses of Apple employees.

Apple accordingly moves to seal portions of Exhibit B containing sealable information. Apple’s proposed redactions of Exhibit B are indicated in the redacted version filed with this statement and itemized in the concurrently filed Declaration of Mark A. Perry (the “Perry Declaration”).

### LEGAL STANDARD

“The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense,” including preventing the disclosure of information. *See* Fed. R. Civ. P. 26(c). The Court has “broad latitude” “to prevent disclosure of materials for many types of information, including, *but not limited to*, trade secrets or other confidential research, development, or confidential information.” *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (emphasis in original); *see also Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (compelling circumstances exist to seal potential release of trade secrets) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)); *PQ Labs, Inc. v. Qi*, 2014 WL 4617216, at \*1 (N.D. Cal. Sept. 15, 2014) (granting multiple motions to seal where publication would lead to the disclosure of trade secrets); *Apple Inc. v. Rivos, Inc.*, 2024 WL 1204115, at \*1 (N.D. Cal. Mar. 21, 2024) (granting request to seal “internal product codenames” and noting that a prior request for the same had also been granted). Courts often find good cause exists to seal personally identifiable information. *See, e.g., Snapkeys, Ltd. v. Google LLC*, 2021 WL1951250, at \*3 (N.D. Cal. May 14, 2021) (granting motion to file under seal personally identifiable information, including email addresses and telephone numbers of current and former employees).

Although a party must show compelling circumstances to seal information appended to dispositive motions, the standard for non-dispositive motions is simply “good cause.” *In re Anthem, Inc. Data Breach Litig.*, 2018 WL 3067783, at \*2 (N.D. Cal. Mar. 16, 2018); *Rembrandt Diagnostics, LP v. Innovacon, Inc.*, 2018 WL 1001097, at \*1 (S.D. Cal. Feb. 21, 2018); *see DNA Genotek Inc. v. Spectrum Sols., L.L.C.*, 2023 WL 4335734, at \*2 (S.D. Cal. May 10, 2023). In general, requests to seal information should be narrowly tailored “to remove from public view only the material that is protected.” *Ervine v. Warden*, 214 F. Supp. 3d 917, 919 (E.D. Cal. 2016); *Vineyard House, LLC v. Constellation Brands U.S. Ops., Inc.*, 619 F. Supp. 3d 970, 972 n.2 (N.D. Cal. 2021) (Gonzalez Rogers, J.) (granting a motion to seal “because the request is narrowly tailored and only includes confidential information”).

### DISCUSSION

Apple seeks to seal personally identifiable information in the exhibit to Epic’s Motion. *See Perry Decl.* ¶ 5.

Epic’s administrative motion to seal is subject to the “good cause” standard because it concerns non-dispositive objections related to discovery. *See, e.g., Kamakana*, 447 F.3d at 1179 (“[T]he public has less of a need for access to court records attached only to non-dispositive motions because those documents are often unrelated, or only tangentially related, to the underlying cause of action.”); *Lee v. Great Am. Life Ins. Co.*, 2023 WL 8126850, at \*2 (C.D. Cal. Nov. 13, 2023) (“Matters concerning discovery generally are considered nondispositive of the litigation” (citation omitted)); *see also In re Anthem, Inc. Data Breach Litig.*, 2018 WL 3067783, at \*2; *Rembrandt Diagnostics, LP*, 2018 WL1001097, at \*1; *Al Otro Lado, Inc. v. Wolf*, 2020 WL 5422784, at \*4 (S.D. Cal. Sept. 10, 2020).

Apple’s sealing request meets the good cause standard here. *Lamartina v. VMware, Inc.*, 2024 WL 3049450, at \*2 (N.D. Cal. June 17, 2024) (good cause to seal internal email communications). Apple operates in an intensely competitive environment, and thus has taken extensive measures to protect the confidentiality of its information. *See Perry Decl.* ¶ 3. Courts in this district have found not only good cause, but compelling reasons exist to seal personally identifiable information, like that found in Exhibit B. *See Snapkeys*, 2021 WL 1951250, at \*3 (granting motion to file under seal personally identifiable information, including email addresses and telephone numbers of current and former employees); *see also UnifySCC v. Cody*, 2023 WL 7170265, at \*1 (N.D. Cal. Oct. 30, 2023) (finding compelling reasons

1 to seal personally identifying information of employees, including names, addresses, phone numbers,  
2 and email addresses).

3 Apple has narrowly tailored its sealing request to include only the information necessary to  
4 protect its personally identifiable information. *See Krommenhock v. Post Foods, LLC*, 2020 WL  
5 2322993, at \*3 (N.D. Cal. May 11, 2020) (granting motion to seal “limited” information); *see also*  
6 *Phillips*, 307 F.3d at 1211; *Williams v. Apple Inc.*, 2021 WL 2476916, at \*2–3 (N.D. Cal. June 17, 2021)  
7 (noting Apple’s narrowed sealing requests with “tailored redactions”); Dkt. No. 643 at 3 (finding Apple’s  
8 proposed redactions appropriate for an exhibit when redactions were “narrowly tailored” to “sensitive  
9 and confidential information”). Apple has only partially redacted limited information in the exhibit. *See*  
10 *Perry Decl.* ¶ 5.

11 For the foregoing reasons, there is good cause that warrants partially sealing Exhibit B to Epic’s  
12 Motion.

### 13 CONCLUSION

14 Apple respectfully requests that the Court seal the information identified in the accompanying  
15 declaration.

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18 Dated: April 1, 2025

Respectfully submitted,

19 By: /s/ Mark A. Perry

20 Mark A. Perry

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21 Attorney for Apple Inc.  
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